

September 6, 2002

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20054

RE: CC Dockets Nos. 96-115, 96-149, 00-257

Dear Chairman Powell:

AARP respectfully submits these comments for the Federal Communications Commission's (FCC) consideration and thanks the Commission for the opportunity to participate in this important docket regarding the disclosure of personal identifying information. The privacy of this information and the circumstances under which it can be used and disclosed by affiliated companies and third parties is a matter of great concern to older persons and AARP members. Today we are asking the Commission to reassess its July ruling in this proceeding and return to the requirement that carriers obtain a customer's explicit "approval" via opt-in prior to sharing information.

Telecommunications companies collect Social Security numbers, credit references, names of employers and sources of income, among other customer-specific, sensitive, and non-publicly available information. Customer Proprietary Network Information (CPNI) also tells them: 1) what phone services are subscribed to by customers, 2) whom, when, and where customers call, 3) how much customers spend each month for the services provided, and 4) what their payment history has been. The rights of consumers to determine whether and to whom this information shall be disclosed are at the heart of the issue today.

The AARP Public Policy Institute sponsored an independently-conducted national telephone sample survey of AARP members regarding their views on privacy in December of 1998. Though the comments broadly addressed consumer privacy, they are relevant to this proceeding. Results included the following:

- 78 percent of respondents disagreed, 56 percent disagreeing *strongly*, with the statement, "Current federal and state laws are strong enough to protect your personal privacy from businesses that collect information about customers."
- 87 percent of respondents reported that it would bother them if personal information were sold by businesses, government agencies, or Web sites to other businesses.
- 81 percent of respondents opposed newly affiliated companies from being allowed to internally share personal and financial information about customers.

- Over two-fifths (42 percent) of respondents indicated that they “didn’t know” who they would turn to for assistance if a company were inappropriately sharing or selling their personal information.

It is clear from AARP’s survey that mid-life and older Americans feel vulnerable to the complex and fundamental changes that have occurred in this period of market transformation.

Concerns among our members and the general public have been heightened by the easy access to and misuse of personal information, particularly in connection with fraudulent telemarketing and a growing number of identity theft cases. For example, the Federal Trade Commission (FTC) recently noted that 15 percent of identity theft victims over the age of 60 reported that the identity thief obtained unauthorized telecommunications or utility equipment or services in their name. This figure rose to 24 percent for those under age 60.

In various proceedings before this body and other regulatory agencies, AARP has remarked on the burden opt-out regimes place on customers and, in this period of increasing concerns about identity crimes, we believe it would be a mistake to make it more difficult for consumers to protect themselves. For these reasons, we strongly urge the Commission to reassess its recent decision and protect customers' proprietary network information from disclosure unless the customer has explicitly authorized the disclosure. The adoption of an opt-in system rather than the hybrid opt-out/opt-in approach forwarded by the Commission would better serve consumers. We also believe that such an opt-in system solely for CPNI information sharing would not run counter to the United States Court of Appeals for the 10th Circuit’s directive to the FCC.

AARP appreciates having the opportunity to comment on this proceeding. If you have any questions or comments, please feel free to call me or have your staff contact Jeff Kramer of our Federal Affairs staff at 202/434-3800.

Sincerely,

David Certner
Director
Federal Affairs